

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
CIVIL ACTION FILE NO. 5:11-CV-354

L.S., a minor child, by and through his father)
and next friend, Ron. S.; K.C., a minor child, by)
and through his mother and next friend, Africa H.,;)
ALLISON TAYLOR JOHNS; and D.C., a minor)
child, by his mother and next friend, Penny C.;)

Plaintiffs,)

M.S., a minor child, through his parent and natural)
guardian, Rachelle S.,)

Intervenor Plaintiff,)

vs.)

ALDONA ZOFIA WOS, in her official capacity)
as the Secretary of the Department of Health and)
Human Services; PAMELA SHIPMAN, in her)
official capacity as Area Director of Piedmont)
Behavioral Health Care Area Mental Health,)
Developmental Disabilities, and Substance Abuse)
Authority, and PIEDMONT BEHAVIORAL)
HEALTHCARE AREA MENTAL HEALTH,)
DEVELOPMENTAL DISABILITIES AND)
SUBSTANCE ABUSE AUTHORITY doing)
business as PBH,)

Defendants.)

ORDER PRELIMINARILY APPROVING SETTLEMENT AND
DIRECTING NOTICE

Pursuant to Local Rule 17.1 E.D.N.C. and Federal Rule of Civil Procedure 23(e), the parties now seek Court approval of a Settlement Agreement in this class action case filed on behalf of certain participants on the 1915(c) Innovations Medicaid waiver, many of whom are minors and/or incompetent individuals. The settlement, if approved, includes a set of agreements

regarding due process procedures that will apply to Medicaid-reimbursable services covered under the Innovations waiver.

Plaintiffs in this case allege that defendants have violated certain provisions of the United States Constitution and the Medicaid Act. Defendants deny that any violations have occurred. The case is brought pursuant to 42 U.S.C. § 1983.

Upon consideration of the proposed settlement agreement and the parties' Joint Motion and Incorporated Memorandum for Expedited Approval of the Settlement Agreement, the Court preliminarily approves the settlement agreement pending an opportunity for class members to object to the proposed settlement agreement. The Court agrees with the parties that notice of the settlement of this case should be provided to class members, pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, prior to entry of an order of approval in order to provide an opportunity for class members to object.

The Court further APPROVES the parties' agreement as to the form, content, and procedure for providing notice to all participants on the N.C. Innovations Waiver.

A hearing will be held on April 6, 2015 at 1:30 p.m. at the United States District Court in New Bern, North Carolina, 413 Middle Street, New Bern, NC 28560, to consider and act upon any objection to the proposed settlement of this case that has been filed with the court, communicated to plaintiff's counsel, or stated at the hearing, and, if appropriate, to approve the settlement. Counsel for the class and counsel for the defendants should be prepared at the hearing to respond to objections filed by class members and to provide other information, as appropriate, bearing on whether or not the settlement should be approved.

With the consent of the parties, and after a review and a finding that the foregoing notice procedure and content is fair and reasonable, it is ORDERED that the parties shall comply with the terms of the foregoing notice procedure. *

This the 2nd day of January, 2015

A handwritten signature in black ink, reading "Louise W. Flanagan". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Louise Wood Flanagan
United States District Court Judge

* Including that the deadline for the making of any objection as referred to in the parties' notice (DE 204) shall be March 11, 2015.